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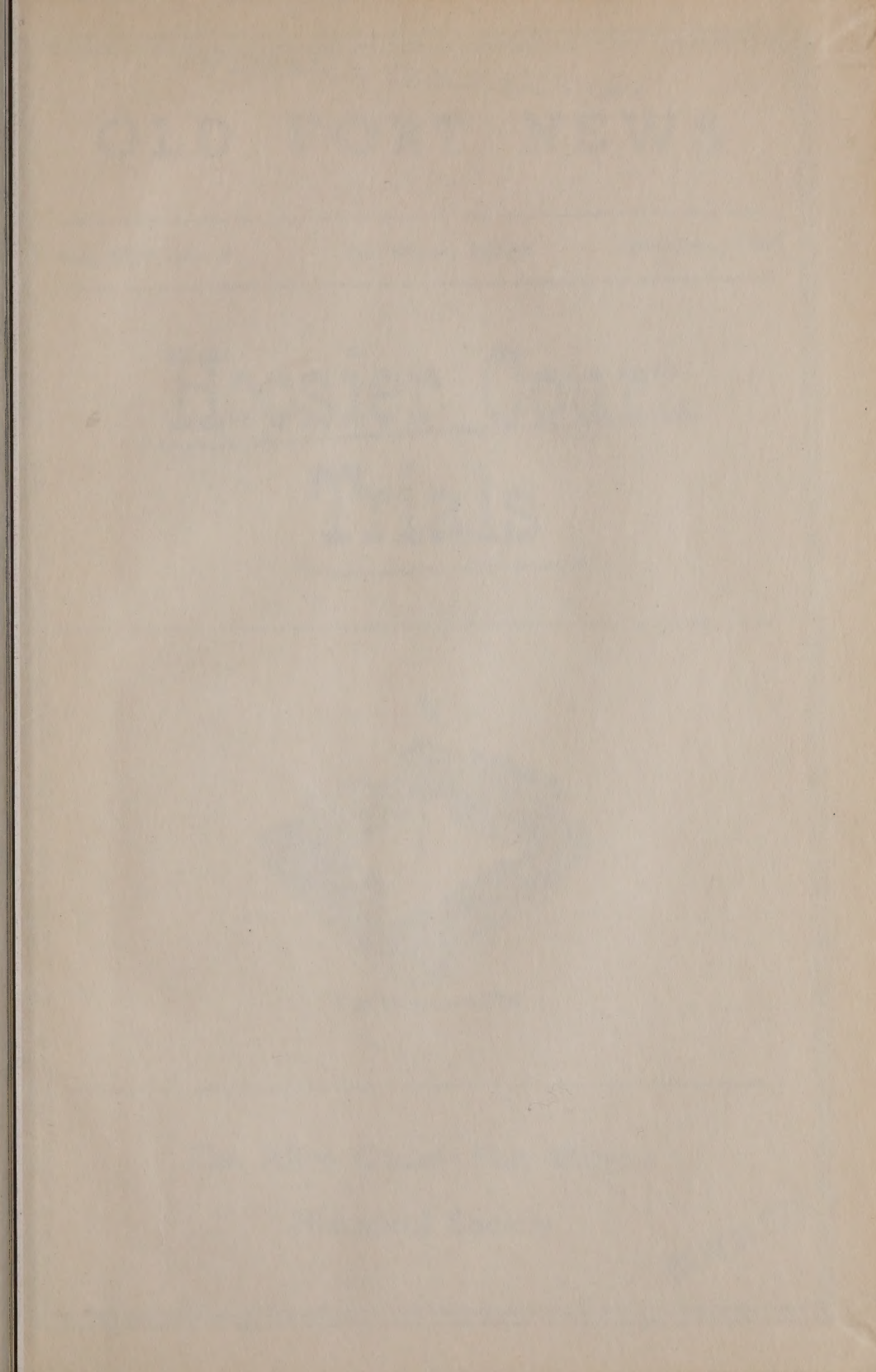


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Hoosier court trials

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INDIANA COLLECTION

OLD FORT NEWS

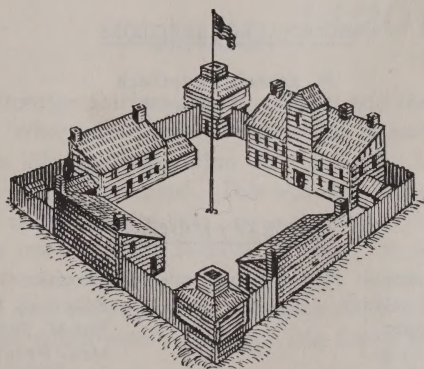
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Fort Wayne, Indiana

April-June, 1960

Hoosier Court Trials

E. F. Colerick



Fort Wayne—1794

The Allen County-Fort Wayne
Historical Society

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INDIANA COLLECTION

FOREWORD 1120145

In the early frontier settlements the Indians and the pioneers frequently came into conflict. What constituted a crime was a matter of interpretation. An Indian's right to kill another Indian for revenge, in retaliation, or for personal reasons was simply accepted. This was the red man's law. When a white man murdered another white man, he was subject to arrest and a court trial. That was his law. In the swamps or forests a desperate struggle for survival often occurred between the pioneer and the Indian. After Indiana became a state and settlers were more numerous many a dead Indian would be found pierced by the white man's bullets. The crime went unpunished when the criminal was unknown.

In 1824 the first trials, convictions, and executions of white men for murdering Indians in Indiana were important in establishing law and order. Crimes committed by Indians upon the territory of the United States made them likewise subject to its laws. The trial and conviction of a Miami Indian chief, Ne-We-Ling-Gun or Big-Leg, set a precedence in Fort Wayne's legal history.

The Allen County-Fort Wayne Historical Society presents this brief history of "Hoosier Court Trials" taken from EARLY INDIANA TRIALS by the Honorable Oliver H. Smith to inform and entertain its readers. This account was previously published in THE INDIANAPOLIS NEWS, July 28, 1891 by Mr. E. F. Colerick.

In the month of March, 1824, a hunting party of Indians (Senecas) had encamped on the banks of Fall creek, in Madison county, several miles above the falls. This region at that time, and in fact the entire northeastern and central portions of the State, was a dense, wild wilderness, filled with game of all kinds. This party, or family, consisted of nine persons--two men, three squaws, and four children, two boys ten or twelve, and two girls still younger. They were inoffensive, friendly Indians, who kept strictly to themselves, taking care not to interfere in any way with the settlers of their vicinity. The Indians were the ones that now lived in fear of the whites, a reversed condition of things. Many of the white settlers, on account of the massacre of friends and relatives during the Indian invasions, held a relentless hatred for the red race. For a long time after peace had been declared between the two races, such settlers would, when opportunity offered, secretly take the life of an Indian. To them, as with the Indians, revenge was sweet. In all the frontier settlements it was of frequent occurrence that a dead Indian would be found in the forests, pierced by the white man's bullet.

The men hunted with their guns, while the squaws attended the traps. One morning while seated around their campfire, little dreaming of harm from any source, five white men came to their peaceful abode with protestations of friendship. Their names were Harper, Hudson, Sawyer, Bridge, Sr., and Bridge, Jr.

Honorable Oliver H. Smith in EARLY INDIANA TRIALS wrote that Harper was the leader. He stepped up to Ludlow (the oldest Indian) took him by the hand, told him his party had lost their horses, and wanted him and the other Indians to help find them. The Indians agreed to go in search of the horses. Ludlow took one path and Mingo another. Harper followed Ludlow, and Hudson trailed Mingo, keeping some fifty feet behind. They traveled a short distance from the camp when Harper shot Ludlow through the body. He fell dead on his face. Hudson, on hearing the crack of Harper's rifle, immediately shot Mingo, the ball entered just below his shoulders, and passed clear through his body. Mingo fell dead. The party then met and proceeded to within gunshot of the camp. Sawyer shot one of the squaws through the head. She fell and died without a struggle. Bridge, Sr., shot another squaw, and Bridge, Jr., the other squaw. Both fell dead. Sawyer then fired at the oldest boy, but only wounded him. The other children were shot by some one of the party. Harper then led on to the camp. The three squaws, one boy and the two little girls lay dead, but the oldest boy was still living. Sawyer took him by the legs and knocked his brains out against the end of a log. The camp was then robbed of everything worth carrying away. Harper, the ringleader, left immediately for Ohio, and was never taken. Hudson, Sawyer, and the two Bridges were arrested and confined in a square log jail, built of heavy beech and sugar tree logs, notched down closely, and fitting tight above, below, and on the sides.

Hudson was a middle size man with a bad look, dark eyes, and bushy

hair, about thirty-five years of age, in appearance. Sawyer was about the same age, rather heavier than Hudson, but there was nothing in his appearance that could have marked him in a crowd as any other than a common farmer. Bridge, Sr., was much older than Sawyer; his hair was quite gray, he was above the common height, slender, and a little bent while standing. Bridge, Jr., was some eighteen years of age, a tall stripling, the son of Bridge, Sr., and the brother-in-law of Sawyer. The news of these Indian murders flew upon the wings of the winds. The settlers became greatly alarmed, fearing the retaliatory vengeance of the tribes, especially of the Senecas. The facts reached Colonel John Johnston at the Indian agency at Piqua, Ohio. An account of the murders was sent from the agency to the War Department at Washington city. Colonel Johnston and William Conner visited all the Indian tribes, and assured them that the Government would punish the offenders, and obtained the promise of the chiefs and warriors that they would wait and see what their "Great Father" would do before they took matters into their own hands. This quieted the fears of the settlers, and preparation was commenced for the trials.

A new log building was erected at the north part of Pendleton, with two rooms, one for the court and the other for the grand jury. The courtroom was about twenty by thirty feet, with a heavy puncheon floor; a platform at one end, three feet high, with a strong railing in front; a bench for the judges, a plain table for the clerk; in front, on the floor a long bench for the counsel, a little pen for the prisoners, a side bench for the witnesses, and a long pole in front, substantially supported, to separate the crowd from the court and bar. A guard by day and night was placed around the jail. The court was composed of William W. Wick, presiding judge; Samuel Holliday and Adam Winchell, associated. Judge Wick was young on the bench, but with much experience in criminal trials. Judge Holliday was an intelligent and conscientious man. Judge Winchell was a blacksmith, and had ironed the prisoners; he was an honest, rough, frank, illiterate man, without any pretensions to legal knowledge. Moses Cox was the clerk; he could barely write his own name, and when a candidate for justice of the peace at Connersville he boasted of his superior qualifications: "I have been sued on every section of the statute and know all about the law, while my competitor has never been sued and knows nothing about the statute." Samuel Cory, the sheriff, was a fine specimen of a backwoods Hoosier, tall and strong, without fear of man or beast, with a voice that made the woods ring as he called the jurors and witnesses. The county was thus prepared for the trials. In the meantime the Government was not sleeping. Colonel Johnston, the Indian agent, was directed to attend the trials to see that the witnesses were present and to pay their fees. General James Noble, then a United States Senator, was employed by the Secretary of War to prosecute, with power to fee an assistant; Philip Sweetzer, a young son-in-law of the General, of high promise in his profession, was selected by the General as his assistant. Calvin Fletcher was the regular prosecuting attorney, then a young lawyer of much ability, a good criminal lawyer.

The day for the trial of Hudson, one of the prisoners, arrived. A number of distinguished lawyers from this State were in attendance, and several from the State of Ohio; of the number were General James Noble, Philip Sweetzer, Harvey Gregg, Lot Bloomfield, James Raridan, Charles H. Test, Calvin

Fletcher, and William R. Morris, of this State; General Sampson Mason, and Moses Vance, of Ohio. During the temporary absence of Judge Wick, James R. Morris moved the associate judges: "I ask that these gentlemen be admitted as attorneys and counselors at this bar; they are regular practitioners."

JUDGE WINCHELL: "Have they come here to defend the prisoners?"
"The most of them have."

"Let them be sworn--nobody but a lawyer would defend a murderer!"

MR. MORRIS: "I move the court for a writ of habeas corpus, to bring up the prisoners now illegally confined in jail."

JUDGE WINCHELL: "For what?"

"A writ of habeas corpus."

"What do you want to do with it?"

"To bring up the prisoners and have them discharged."

"Is there any law for that?"

Morris read the statute regulating the writ of habeas corpus.

"That act, Mr. Morris, has been repealed long ago."

"Your Honor is mistaken; it is a constitutional writ, as old as Magna Charta itself."

"Well, Mr. Morris, to cut the matter short, it would do you no good to bring out the prisoners. I ironed them myself, and you will never get them irons off until they have been tried, habeas corpus or no habeas corpus."

"Per curia, motion overruled."

Judge Wick entered the courtroom and took his seat between the two side judges.

I here insert a scene in this court, published by General Sampson Mason, in a Springfield, Ohio paper. It is taken from EARLY INDIANA TRIALS as follows:

As I entered the courtroom the judge was sitting on a block, paring his toe nails, when the sheriff entered, out of breath, and informed the Court that he had six jurors tied, and his deputies were running down the others.

The jury took their seats in the jury box. Hudson, the prisoner, was brought into court, pale, haggard, and downcast, and with a faltering voice, answered upon his arraignment, "Not guilty." The jury were hardy, honest pioneers, wearing moccasins and knives in their belts. The evidence occupied only a single day, and was positive, closing every door of hope to the prisoner. The jury, after receiving a lengthy charge from Judge Wick, retired, and in a short time returned with a verdict of "guilty of murder in the first degree." Motion for a new trial being overruled, the prisoner was brought into court and the sentence of death was pronounced upon him. The time for the execution was fixed for a distant day. In the interim, Hudson, one dark and stormy night, escaped from the guard, and on reaching the woods hid himself in a hollow log where, on the following day, by the help of a dog, he was discovered and returned to the jail.

Time passed on, the fatal day arrived. Many people were on hand to witness the execution. Among them were seen several Seneca Indians, as also a large number from other tribes. At the appointed hour Hudson was launched

into eternity. The trials of the other three prisoners--Sawyer, Bridge, Sr., and Bridge, Jr.,--were postponed until the next term of the court, which would be held six months hence.

During the winter of 1824-25, the Legislature attached the county of Madison to the Third Judicial Circuit, Judge Eggleston presiding. The court was again convened, Oliver H. Smith prosecuted the pleas of the State. As at the trial of Hudson, Colonel John Johnston, Indian agent, was in attendance on behalf of the General Government, with funds to pay witness and attorneys' fees. The two former associated judges, Holliday and Winchell were in their seats. Sawyer, by agreement, was to be tried first. He was placed in the prisoners' box, looking haggard and changed in appearance from his long confinement. There was a large crowd present. Judge Eggleston ordered the sheriff to call the petit jury. The irrespressible Judge Winchell suggested to the sheriff "that he had better place Squire Makepeace on the jury, he will make a good juror; he will not let one of these murderers get away." Judge Eggleston, turning to Judge Winchell: "This I will never do. What, the Court pack a jury to try a capital case?"

The evidence was conclusive that the prisoner had shot one of the squaws at the camp with his rifle. The jury were a hardy longbearded set of men, with knives and tomahawks in their belts, and not a pair of shoes among the whole of them; some wore moccasins, while others were barefooted. Able speeches were made for the prisoner by Messrs. Morris, Test, and Raridan. General Noble closed for the prosecution, with a powerful speech. The case went to the jury under an able charge from the judge.

In a short time the jury returned with a verdict of "guilty of manslaughter," with two years at hard labor in the penitentiary. Mr. Raridan sprang to his feet. "If the Court please, we let judgment go on the verdict, and we are ready for the case of Sawyer, for killing the Indian boy at the camp." The same jury was accepted by both sides and immediately sworn. The testimony was conclusive against the defendant. The jury, after an absence of only a few minutes, returned a verdict of "murder in the first degree."

The next morning the case of Bridge, Sr., for shooting a little Indian girl at the camp, was called. The testimony was positive, the jury was out less than twenty minutes, and found the prisoner guilty of "murder in the first degree." The last case, Bridge, Jr., for the murder of the other Indian boy at the camp, was taken up. The prisoner was a green gawk of a boy not more than eighteen years old; he was exceedingly nervous and badly frightened. He had told the whole story of the bloody massacre to the sheriff and others. For this confession Bridge, Sr., and Sawyer would have strangled him had not the guard entered the pen just in time to save him, by causing the murderers by force to release their hold upon the boy. The trial was brief; verdict, "murder in the first degree," with a unanimous recommendation to the Governor for a pardon, on account of his youth, in which the Court and bar joined.

On the following morning the prisoners were brought in to receive sentence. Says an eyewitness to the scene:

The prisoners rose in their places, the tears streaming down their faces, while their groans and sighs filled the courtroom. I fixed my eyes upon Judge

Eggleston. I had heard him pronounce sentence of death on Fuller for the murder of Warren, and upon Fields for the murder of Murphy. But here was a more solemn scene. An aged father, his young son, and his wife's brother--all standing before him to receive sentence of death. The face of the judge was pale; his lips quivered, his tongue faltered as he addressed the prisoners. The sentence of death by hanging was pronounced, but the usual conclusion 'may God have mercy on your soul' was left struggling for utterance.

The time for the execution soon rolled around. The gallows was erected on the north bank of Fall creek, just above the falls, at the foot of the rising grounds you may see from the cars. Thousands of people surrounded the gallows. A Seneca chief with his warriors was posted near the brow of the hill. Sawyer and Bridge, Sr., ascended the scaffold together and were executed in quick succession and died without a struggle. The vast audience were in tears. The exclamation of the Senecas was interpreted--"We are satisfied." An hour expired. The bodies were cut down and laid in their coffins, when Bridge, Jr., the last of the convicts, was seen ascending the scaffold. His step was feeble, requiring the aid of the sheriff. The rope was adjusted. He threw his eyes around upon the audience and then down upon the coffins, where lay exposed the bodies of his father and uncle. From that moment his wild gaze too clearly showed that the scene had been too much for his youthful mind. Reason had partially left her throne, and he stood wildly looking at the crowd, apparently unconscious of his position. The last minute had come when James Brown Ray, the Governor of the State, arose and announced to the immense assemblage that the convict was pardoned. Never before did an audience more heartily respond, while there was a universal regret that the executive mercy had been deferred to the last moment.

Thus ended the only trials, where convictions of murder were ever had, followed by the execution of white men, for killing Indians in the United States.

1120145

First Indian Trial held in Fort Wayne

At the regular term of the Circuit Court at Fort Wayne, August, 1826, Honorable Miles C. Eggleston, of Madison, then pronounced one of the best nisi prius judges of the West, presented his commission and was sworn in as president judge of that circuit, and presided over its third term, held in the tavern of William Sittenfield. Hiram Browne, of Indianapolis, and Amos Lane, of Lawrenceburg, father of Honorable James H. Lane, of Kansas notoriety, were sworn in as attorneys. Martin M. Ray, of Indianapolis, was appointed the prosecuting attorney. At this term a case of murder came up for trial. A Miami Indian, a village chief, known as Ne-We-Ling-Gun, or Big-Leg, was accused of killing a half-Indian and Negro woman, whom he claimed as his slave. She had been his wife; he having two wives at the time; the half-breed woman he called his cook-wife and the Indian woman his sleep-wife. For some cause he had thrown off the cook-wife. For a long time after he had discarded her she was in the habit of entering his cabin and taking his meat. He repeatedly warned her to desist. At length he told her that if she disobeyed him again, he would kill her. Big-Leg was the chief of the clan whose village

was in the Indian reserve, on the Wabash River, about eighteen miles from Fort Wayne. In order to escape the fate that she knew must befall her, after a further disregard of the commands of the chief, the woman went to Fort Wayne. There she found employment in the family of William G. Ewing, a prominent Indian trader.

Shortly after her departure Big-Leg went to Fort Wayne to find her. After wandering about the town for some time, he discovered her washing clothes in the backyard of the Ewing residence. Stealing suddenly upon her, as she raised her right arm, he deliberately plunged his long knife into her side with such force that it was said that the blade passed entirely through her body. She fell dead at his feet. With much effort he drew the knife-blade from her body, remarking as he did so, "Heap good job!" The transaction was witnessed by some workmen engaged in roofing a barn near by. It was no uncommon thing at that period for the Indians visiting at the towns of the whites to kill one another. No redress had ever been sought by the authorities for these murders. Fort Wayne had been the scene of many such bloody dramas. The citizens were so greatly incensed at this terrible act of Big-Leg that the authorities had the chief arrested and placed in the jail.

Indian usage warranted the right to kill each other, if they saw proper, as a matter of revenge, or for other reason, without punishment other than common retaliation, or that required at the hands of the near relatives or friends of the deceased. But crimes committed by Indians upon the territory of the United States made them amenable to the laws of the white man; hence the arrest of Big-Leg.

He was surprised, and seemed greatly offended, when the officer arrested him and locked him in the jail. To be thus deprived of his liberty was galling to his proud spirit, he was a very brave, haughty, and high-spirited Indian. His plea was, that it was only a woman, and that she belonged to him--was his property, and that he had a right to do as he pleased with her. When told by the sheriff that he no doubt would be hanged for the crime, he could not comprehend it. He seemed to think that it was some such operation as that which he had often witnessed in the use of the old steelyards by the traders in weighing venison, etc. He concluded that he was to be weighed until he was dead. This fact soon became generally understood among the Indians of his tribe. Being a chief highly regarded by his clan, they early sought to exchange him for one of their number, whom they considered trifling and worthless, without avail. They then tried to buy him off, offering to give the authorities two Indian ponies, a gun, and a pair of fine Mackinaw blankets, all to no purpose.

While in jail awaiting his trial, jailer John P. Hedges, who could speak the Miami language fluently, in his frequent conversations with Big-Leg, had explained to him the process of hanging, which was being choked to death. At this explanation he seemed horrified, and begged the sheriff to have the Court shoot him. He sent word to his wife, requesting her to bring one of his dogs to him for company, as he was very lonesome in his confinement. One morning soon after receiving the dog, the sheriff entered the jail to give the prisoner his breakfast. The dog was hanging to the bedpost, strangled to death, presenting a most hideous sight, the eyes protruding from their sockets, the tongue hanging from the mouth, and a ghastly grin upon the face of the

brute. Big-Leg was seated upon the floor several feet away, contemplating the hideous spectacle before him. He asked the sheriff if that was what he would have to undergo, and, if so, he would obtain a knife and take his own life before he would die that way. From thence on until his trial came off, he was very despondent and had to be watched closely for fear that he or some of his friends might put him out of the way.

At last the day for the trial arrived. His attorney was Honorable David H. Colerick, then a profound young lawyer and fine speaker, assisted by James Raridan, the one-armed lawyer of Wayne county, who afterward represented his district in Congress. When the prisoner was arraigned before the court, he was asked the question, "Are you guilty or not guilty?" The interrogatory was explained to him by the interpreter, Chief Richardville, who had asked the privilege of acting as interpreter for his friend in order that he might have a full understanding and explanation of all that occurred, thereby insuring him a fair trial. After the explanation was made he replied:

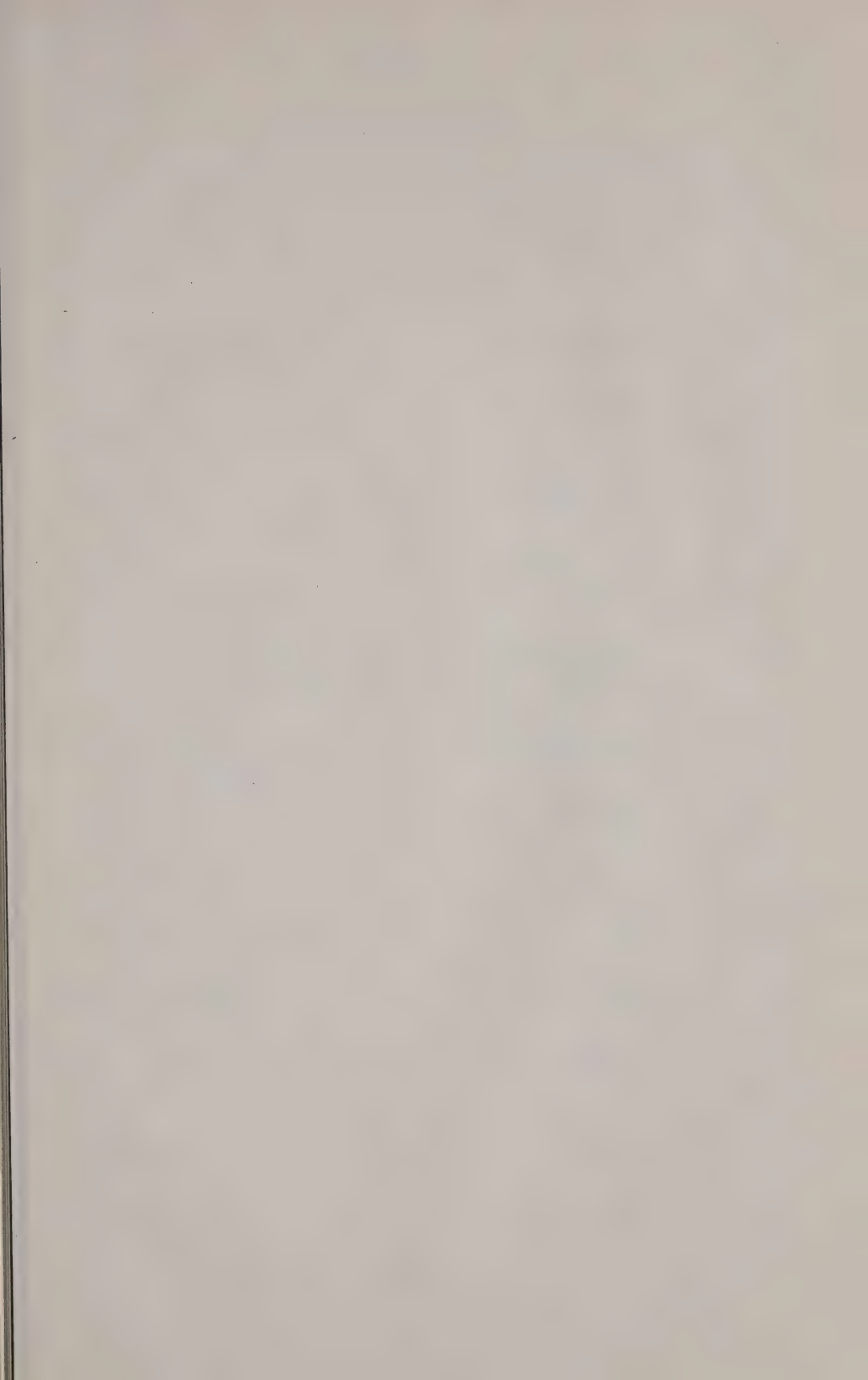
I have done nothing wrong. I killed the woman. She was a thief, and she was my property, and I could do as I pleased with her. But if you will let me die like a man, not like a dog, you can take me out now and shoot me and stop all this trouble.

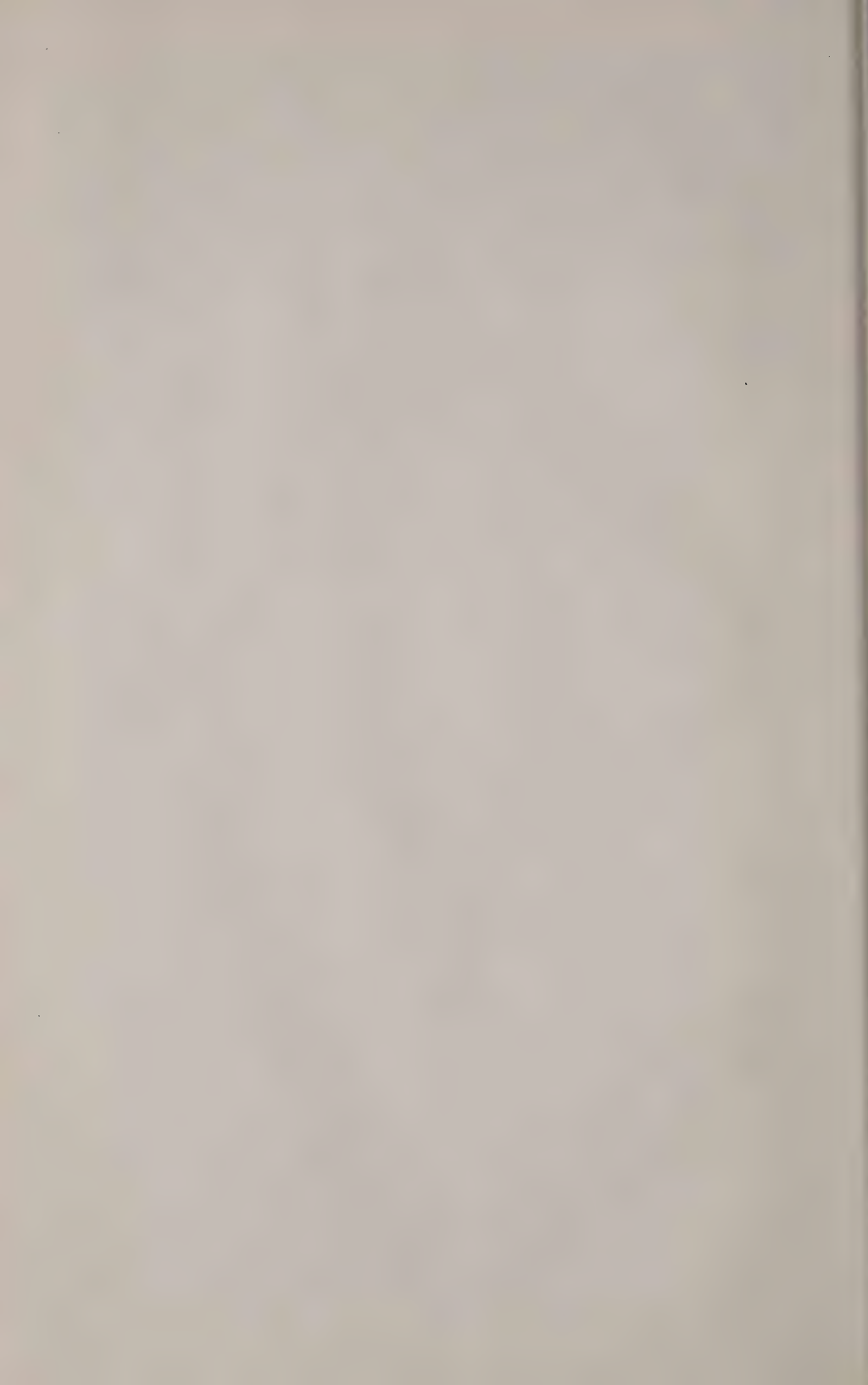
The plea of not guilty was entered in his behalf, and the trial proceeded; during which time Big-Leg looked to be the most unconcerned person in the room. The case on the part of the State was ably prosecuted by Mr. Ray, a young lawyer of ability. Messrs. Colerick and Raridan made a splendid defense, but it availed nothing. The case was too plain a one for any doubting. The jury retired and in a half hour's time returned with a unanimous verdict of "guilty of murder in the first degree."

Chief Richardville then read the verdict to Big-Leg, who merely nodded his head. When asked by the judge, if he had anything to say why sentence should not be pronounced upon him, he replied, "No, but I want it done immediately or not at all." The judge then pronounced the sentence, that he should be hanged on a certain day, some forty days hence. A petition to the Governor, asking for the pardon of Big-Leg, was drawn up at once, and signed by the judge, prosecutor, and the entire jury, as also by the citizens. The petition was granted and in due time the pardon papers were received by the officers. The knowledge that a pardon had been granted was kept from Big-Leg and his friends. The authorities believed that it would have a good effect upon the prisoner, and the Indians generally when they saw what a narrow escape had been made, and that fewer murders would be committed in the future. In the meantime the prisoner grew very restless and impatient at the long delay. At last the day for the execution arrived and Big-Leg prepared for the ordeal through which he was to pass, by donning a clean calico shirt, leggins, and moccasins. The entire Indian population, consisting of Miami, Potawatomis, and a delegation of Wyandots had come to town to witness the execution. At the hour of 12 a.m. the prisoner was brought from the jail, and ascended the scaffold. On taking his seat he asked for a pipe and tobacco, and smoked vigorously. After order was restored, the sheriff, and the interpreter, Chief Richardville, stepped in front of Big-Leg. In a loud

voice the sheriff read the pardon, which Chief Richardville interpreted to the prisoner in a voice loud enough to be heard by the large concourse of Indians present. When the reading of the document was finished, a defening whoop went up from the excited Indians. During the excitement, Big-Leg asked the sheriff if he could go. When informed that he could, he leaped from the platform to the ground and vanished from sight. It was said that he did not stop to speak to anyone, but made for the woods and hurried to his home to console his wife and children who were lamenting him. Big-Leg in the year 1844, with the remnant of the Miami, was removed to their new home west of the Mississippi where he lived to reach a very old age.

E. F. COLERICK





1960-1961

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